

Appl. No. 09/909,288
Atty. Docket No. CM2506
Amdt. dated 1/19/06
Reply to Office Action of 11/3/05
Customer No. 27752

REMARKS/ARGUMENTS

Claims 57, 58, 60 and 62-65 are currently being considered.

Claim 57 has been amended to recite the presence of an anionic surfactant (basis at page 27, line 3) and the solvent odor masking perfume comprising an ionone (basis at page 17, especially lines 21 and 27). Claim 57 has further been amended to remove the word "type," per the rejections under §112, discussed below. Claim 62 has been amended to include the word "solvent," for the sake of consistency. It is submitted that all amendments are fully support and entry is requested.

Rejections Under §112

It is submitted that the rejections under §112 (Office Action, pages 2-3) have been met by the removal of the term "type." Withdrawal of the rejections on this basis is requested.

Rejections Under 35 USC 103

Claims 57, 58, 60 and 62-65 stand rejected under §103 over U.S. 5,929,007 or JP 60-141,800, both in view of U.S. 5,202,050 and JP 8151597, for reasons of record at pages 5-10 of the Office Action. Applicants respectfully traverse all rejections, to the extent they may apply to the claims as now amended.

Previous arguments and case law cited in support of patentability continue to apply, but will not be extensively repeated herein for the sake of brevity.

At the outset, it is respectfully submitted that the comments at page 11 of the Office Action with regard to JP 8151597 underscore the fact that the rejections are based on a selective reading of the cited patents, resulting in an impermissible hindsight reconstruction of the claimed invention.

As discussed in the previous responsive amendment, JP '597 explicitly discloses the "thread pulling" properties of organic-type thickeners. To avoid such thread pulling, JP '597 replaces organic thickeners with clay thickeners.

In the Office Action at page 11, the position is now taken that JP '597 is relied upon for its teaching of particle size and not for the equivalence of clays to gums or for gum thickeners in general.

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It is respectfully submitted that a rejection cannot be based on a selective reading of only those parts of a cited document that arguably tend to support the rejection, while ignoring those parts of the self-same document which support patentability.

Whatever else JP '597 teaches, it clearly discloses that the properties of organic thickeners are different from clay thickeners, and that clay should be substituted for – not admixed with – organic thickeners.

Respectfully, having made JP '597 of record, the Examiner should not now ignore the full breadth of its disclosures. Clearly, those disclosures can fairly be said to teach away from mixing the two classes of thickeners in compositions of the present type.

The '007 patent clearly teaches away from the present invention, since it excludes the use of anionic surfactants in the disclosed compositions. See '007 Abstract; column 2, line 20; and, especially, column 5, lines 38-44.

As discussed by the Examiner (Office Action, page 7), the '050 patent teaches the presence of anionic surfactants. Since '007 teaches away from such use, '007 cannot properly be combined with '050 to support a rejection under §103. **MPEP 2145.**

Likewise, JP '597 (page 12 of Translation) teaches the use of anionic surfactants. Again, '007 is not combinable with JP '597 under MPEP 2145.

JP '800 does not suggest the use of mixed organic/clay thickeners, nor the use of ionone-containing perfumes to mask solvent odors. Nor does the combination of JP '800 with '050 or JP '597 suggest these combinations. Indeed, as discussed above, JP '597 teaches away from the combined use of the two types of thickeners. Moreover, nothing therein would appear to suggest the ionones to mask the solvent odor, per the amended claims herein.

In light of the foregoing, it is respectfully submitted that the cited documents, singly or in their various combinations, do not teach or suggest the present invention under 35 USC 103. Reconsideration and withdrawal of all rejections on this basis are therefore requested.

Early and favorable action in the case is respectfully requested.

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Double Patenting

In order to speed prosecution, submitted herewith in response to the provisional double patenting rejection (Office Action pages 10-11) is a Terminal Disclaimer over copending 11/151,027. Withdrawal of the rejection is therefore requested.

Certified Copies

The Examiner states that Applicants have not filed certified priority documents 00/19619, 00/20255, 00/34906 and 00/34907 as required under 35 U.S.C. 119(b). (Office Action page 2) However, Examiner's Office Action dated 10/7/2003, at page 2, acknowledges receipt of "papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file." Furthermore, the Office Action Summary included therewith, at box 13, acknowledges the claim for foreign priority and states "All Certified copies of the priority documents have been received." Clarification is therefore requested.

Respectfully submitted,

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